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NOTE BY THE SECRETARY-GENERAL

The Secretary-General has the honour to transmit to the Security Council a report submitted by the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991).

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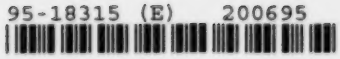

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Annex

Ninth report of the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991), on the activities of the Special Commission

I. INTRODUCTION

1. The present report is the ninth on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991), submitted to the Council by the Executive Chairman of the Special Commission. It is the eighth such report provided in accordance with paragraph 3 of Security Council resolution 699 (1991). It covers the period from 10 December 1994 to 16 June 1995, and is further to reports contained in documents S/23165, S/23268, S/24108 and Corr.1, S/24984, S/25977, S/26910, S/1994/750 and S/1994/1422 and Add.1.

2. The work of the Special Commission in the reporting period has covered the whole range of activities envisaged by section C of Security Council resolution 687 (1991). However, the focus has been to ensure that the Commission is henceforth in a position to monitor Iraq's compliance with its obligations not to use, retain, possess, develop, construct or otherwise acquire those weapon capabilities banned to it under resolution 687 (1991). For the Commission's monitoring to proceed from a comprehensive and accurate base requires that the Commission be able to account, as far as possible, for the disposal or current location of Iraq's capabilities, both past and present, which could be used for banned weapons purposes. Consequently, a large part of the developments to be covered in the present report has already been addressed in the report submitted on 10 April 1995 under Security Council resolution 715 (1991) (S/1995/284).

II. DEVELOPMENTS

A. General

3. The Commission has continued to be extremely active in the period under review. Investigations to elucidate fully all aspects of Iraq's past programmes have continued apace with analytical work being conducted at the Commission's headquarters in New York, inspection and investigation teams being dispatched to Iraq, inquiries on specific matters being addressed to supporting Governments and the responses to those inquiries being fed back into the analytical and investigative work. Seminars with international experts on relevant issues have been convened in New York under the auspices of the Special Commission in order to assist in the analytical process. Further work has been undertaken on the proposal for an export/import monitoring mechanism called for by the Security Council in paragraph 7 of its resolution 715 (1991). This proposal is currently with the Sanctions Committee established under Security Council resolution 661 (1990) for its approval, prior to onward transmission to the Council for adoption. A more detailed assessment of the status of the Commission's work in each area is given below.

4. During the period from 14 to 17 May 1995, the Deputy Executive Chairman of the Special Commission visited Baghdad with a group of chemical weapon experts. The primary purpose of that visit was to address issues arising from the analysis, by the Commission, of Iraq's amended full, final and complete disclosure of its past chemical weapons programmes, submitted on 25 March 1995. Its secondary purpose was to press Iraq to respond to the Commission's concerns relating to Iraq's past biological warfare programme. The mission obtained agreement by Iraq that significant questions did exist and that Iraq would address the chemical issues in written form during the Executive Chairman's next visit to Iraq. On biological matters, Iraq indicated that it could resolve the Commission's concerns, but only after the Commission had agreed that all other areas were closed.

5. Over the period from 29 May to 1 June 1995, the Executive Chairman of the Special Commission visited Baghdad for high-level talks with Iraq. During that time, the Executive Chairman had separate discussions with Iraq's Deputy Prime Minister, Mr. Tariq Aziz, and with the Director of Iraq's Military Industrialization Corporation, General Amer Mohammad Rasheed al Ubeidi. The aim of the visit was threefold: to continue the high-level dialogue initiated in July 1993; to seek to push forward the process of clarifying outstanding issues, particularly in the biological weapons area; and to prepare, through the discussions, for the writing of the present report. Technical talks were also held on chemical weapons, during which some significant progress was made, and on ballistic missiles. However, Iraq refused to engage in efforts to resolve, with the specialists accompanying the Executive Chairman for that purpose, the biological weapon issues referred to in the Commission's last report of April 1995 to the Council.

6. During the meeting with the Deputy Prime Minister, he stated that Iraq's sole reason for cooperating with the Special Commission and the International Atomic Energy Agency (IAEA) was that it sought reintegration into the international community through the lifting of the sanctions and embargo, that is, through the fulfilment of the terms and implementation of paragraphs 21 and 22 of Security Council resolution 687 (1991), leading to the normalization of relations with Member States. If there were no prospect of such reintegration, it would be difficult for Iraq to justify the expense and the effort involved in such cooperation. However, because Iraq wanted full reintegration into the international community, it was prepared to make the necessary sacrifices as long as there was a prospect that such sacrifices would bear fruit.

7. Mr. Aziz stated that, for Iraq, prospects for the desired reintegration would only look good if the Special Commission and IAEA reported clearly to the Security Council that the essential provisions of Council resolutions 687 (1991) and 715 (1991), that is, those required for the implementation of paragraph 22 of the former resolution, had been implemented. He described those essential provisions as being the elimination of Iraq's weapons of mass destruction and ballistic missiles with a range greater than 150 kilometres and the operation of an effective ongoing monitoring and verification system to ensure Iraq's compliance with its obligations not to reacquire such weapons. At the present stage, Iraq required statements, on the one hand from the Special Commission that the chemical weapons and missile files were closed and the ongoing

monitoring and verification system was operational, and on the other from IAEA that the nuclear file was closed. If Iraq thus deemed the prospects of reintegration to be positive, it would be ready in late June 1995 to address to the Special Commission's satisfaction the sole outstanding issue of significance, the biological issue. If the prospects were not good, it would have to assess the situation again.

8. In response to this, the Executive Chairman stated that much had been achieved in the implementation of paragraphs 8 to 10 of Security Council resolution 687 (1991) - indeed, the bulk of what was required. However, those provisions were not confined to the elimination of the named weapons, but also of associated major parts, subsystems and components of such weapons and of facilities for their research, development and production. The latter had, because of Iraq's incomplete and late declarations, taken longer to identify and eliminate than had the weapons. Nevertheless, while there remained a major issue in the biological area concerning the extent of Iraq's past programmes and hence the comprehensiveness of monitoring in the biological area, most of the work was now done. A system of ongoing monitoring and verification was operational in all areas. The export/import monitoring mechanism was available for early adoption and implementation.

9. The Chairman stated that, in the missile and chemical areas, while technical issues remained outstanding, they related more to the level of technical expertise achieved by Iraq or to accounting for components or materials than to weapons themselves or to an operational weapons production capability. Uncertainties arising from such issues (as mentioned in the report to the Security Council contained in document S/1995/284) had been reduced by Iraq during discussions with the Commission. They were no longer significant, in his view, for the evaluation of the fulfilment of the terms of paragraphs 8 to 10 of Security Council resolution 687 (1991), namely the assessment of whether Iraq's proscribed ballistic missile and chemical weapon capabilities had been eliminated and that current dual-purpose capabilities were being adequately monitored. However, he insisted that those issues still needed to be resolved and the Commission would continue to use its rights to do so under the relevant resolutions, the plan for ongoing monitoring and verification and the agreement contained in the Exchange of Letters of 7 and 14 May 1991 between the Secretary-General and the Foreign Minister of Iraq, regardless of what action the Security Council took on the implementation of paragraph 22 of resolution 687 (1991).

10. In that regard, the Executive Chairman welcomed the Deputy Prime Minister's pledge, made in October 1993 and reaffirmed during the meeting, to cooperate with such efforts and with future inspection teams investigating matters relating to past programmes, even after any decision by the Security Council to ease or lift the sanctions and the embargo.

B. Missiles

11. As reported in April 1995 (S/1995/284), the Commission has essentially completed the accounting of proscribed ballistic missile capabilities, that is, ballistic missiles with a range greater than 150 kilometres and related major parts, and repair and production facilities associated with Iraq's past

programmes in that area. Furthermore, as also noted in the report, missile monitoring was now operational. Further progress has since been made in the Commission's investigations, in the disposal of certain missile-related items and in clarifying the direction of Iraq's missile research and development efforts. Additional responses to the Commission's requests for information from some former suppliers would be of great assistance in the early completion of the verification process in this area. Investigations will continue until the Commission is satisfied that it has obtained as detailed a picture as possible of all aspects of Iraq's past programmes and current capabilities. However, the Commission considers that final elucidation of these outstanding matters should not materially affect its current assessment, as contained in the conclusions of the present report, of the overall extent of Iraq's past missile programmes.

C. Chemical weapons

12. As stated in its reports of June 1994 and April 1995 (S/1994/750 and S/1995/284), the Commission has completed the destruction of Iraq's identified chemical weapon facilities, stockpiles and production equipment and the Commission's chemical monitoring system in Iraq is now operational. Destruction activities were extensive, lasting two years and resulting in the destruction of over 480,000 litres of chemical warfare agents, over 28,000 chemical munitions and nearly 1,800,000 litres, over 1,040,000 kilograms and 648 barrels, of some 45 different precursor chemicals for the production of chemical warfare agents. Ongoing monitoring and verification, together with an effective export/import monitoring mechanism, is designed to preclude Iraq from resuming prohibited chemical activities.

13. The Commission has actively pursued its investigations to clarify those issues raised in the April report: completing the material balance for imported precursors and agent production; accounting for production equipment and munitions; and fully elucidating the extent of Iraq's achievements in research, development and production of the nerve agent VX. In that regard, it has held a seminar in New York of international experts on chemical weapons and, in the absence of documentary evidence from Iraq, has had further contacts with several supporting Governments to obtain verification of the quantities and types of chemical weapon-related items supplied by companies operating in their territories. This has resulted in the receipt of a large number of documents, which the Commission is continuing to analyse. The discussions held at Baghdad in May 1995 with Iraqi experts and inspection activities since the April report have provided more information and led to some important clarifications.

14. Iraq, at the Commission's request, has provided additional information on its procurement and disposition of precursor chemicals acquired for VX production and the reason for the cancellation of the project. This included original documentary evidence to support Iraq's declarations concerning its procurement of certain precursor chemicals. It also included details of the location of the sites at which Iraq disposed of one of the three key VX precursor chemicals, which enabled the Commission's resident chemical monitoring group to verify the Iraqi account. By taking samples at the sites concerned, the group verified that quantities of the pure chemical were indeed present and that the size of the pits in which the chemical was buried was consistent, in

general terms, with the quantities of the chemical Iraq declared to be buried there. Iraq also gave the Commission information, pertaining to the second VX precursor, that the chemical monitoring group will verify in the coming weeks in order to confirm the disposition of the major portion of Iraq's declared imports of the precursor. On other issues related to the VX project, Iraq has promised that it will continue its efforts to obtain facts that will enable the Commission to verify Iraq's account. It has followed up on this undertaking and is continuing to send more information to the Commission.

15. During the discussions in May 1995, the Commission received additional information on quantities of various munitions acquired by Iraq and the purpose for their acquisition, particularly as it related to the chemical weapon programme. Iraq reaffirmed in writing that all of the munition types investigated by the Commission in relation to the chemical weapon programme were indeed acquired solely for chemical-fill purposes. While accounting fully for such munitions remains an important task, in the light of the Commission's current knowledge of the disposition of Iraq's stocks of chemical agents and their precursors, the significance of the issue of empty munitions in terms of chemical warfare capabilities is much diminished. Iraq further stated that it would address, in the framework of future biological discussions, the Commission's concern that these munitions might be or might have been used for the weaponization of biological warfare agents.

16. The Commission is now confident that it has a good overall picture of the extent of Iraq's past chemical weapons capabilities and that the essential elements of it have been destroyed. Remaining issues, which centre by and large on verification of Iraq's revised declarations, can be resolved satisfactorily given continued cooperation on the part of Iraq and assistance from supporting Governments on supplies to Iraq. These issues will be pursued until the Commission considers that all avenues for investigation have been exhausted.

D. Biological weapons

17. The situation in the biological area remains blocked by Iraq's refusal to address the Commission's concerns. The evidence available to the Commission establishes that Iraq obtained or sought to obtain all the items and materials required to produce biological warfare agents in Iraq. With Iraq's failure to account for all those items and material for legitimate purposes, the only conclusion that can be drawn is that there is a high risk that Iraq purchased them and used them at least in part for proscribed purposes - the production of agents for biological weapons. Indeed, since the Commission's last report to the Security Council, it has received additional documentary evidence from supporting Governments that lends further weight to that conclusion. While all the elements of the system for biological monitoring are in place and monitoring is proceeding, the Commission cannot be certain that monitoring is comprehensive in coverage because it has been unable to obtain a credible account of Iraq's past military biological activities.

18. Since April 1995, Iraq has responded to the Commission's concerns in that regard only by assuring the Commission that Iraq could be prepared to address the matter in late June 1995. In the meantime, Iraq has stated that it is not

responding to the Commission's questions concerning the scope of Iraq's military biological activities or any other issue relating to Iraq's proscribed biological programme. This has had the additional detrimental effect of delaying the completion of investigations and assessments of certain missile and chemical issues. Iraq's failure to account for its military biological programme leaves one of its essential obligations unfulfilled.

E. National implementation measures

19. There have been no new developments since the Commission's report in April 1995 regarding the national implementation measures Iraq is required to take under the plans for ongoing monitoring and verification. Iraq's anticipated enactment of those measures in the course of April has not materialized. The Commission will continue to pursue the matter and to press for the adoption of the necessary legislation so that this positive development can be reported to the Council.

F. Aerial inspections

20. The Commission's aerial inspection assets, the high-altitude surveillance aircraft (U2) and the Baghdad-based Aerial Inspection Team, continue to make an important contribution to the overall effort to ensure that all relevant activities and facilities within Iraq are encompassed by the monitoring regime.

21. Both assets continue to conduct aerial surveillance of sites under monitoring in Iraq and designated sites, at the direction of the Commission. Experts from the resident monitoring teams accompany the team in order to assist it in focusing on particular areas of relevance at sites. The results obtained from aerial missions are an important part of the overall inspection process in Iraq.

22. As at the end of May 1995, 250 missions have been undertaken by the U2 and 580 missions by the Aerial Inspection Team.

G. Baghdad Monitoring and Verification Centre

23. A full description of the status of the Centre is contained in paragraphs 123 to 127 of the April report. In addition, on 30 May 1995, the Executive Chairman of the Special Commission inaugurated the biological room in the Centre and, in May and June, the security camera system was upgraded. All of the Centre's planned facilities are now operational.

H. Export/import mechanism

24. As stated in the April report, a proposal for a mechanism, required under paragraph 7 of Security Council resolution 715 (1991), to monitor the sales to Iraq by other countries of dual-purpose items has been prepared and submitted jointly by the Special Commission and IAEA to the Sanctions Committee

established pursuant to Security Council resolution 661 (1990) for the latter's consideration. The Committee has twice considered the proposal since it was resubmitted in February 1995, but, while it appears that there is no objection to the text and that all delegations have expressed support for the principles contained in it, formal agreement to submit it to the Security Council, in the name of all three bodies as required by resolution 715 (1991), has yet to be reached.

25. In the meantime, the Special Commission has continued its efforts to prepare for the implementation of the mechanism after its adoption by the Council: dedicated software for a transaction-based database is being developed for installation on the Commission's computer network; supporting documents and notification forms have been further refined; a preparatory inspection of Iraq's principal points of entry for traded goods has been undertaken to ensure that the Commission has full knowledge of Iraq's import procedures and facilities; and Iraq's legislation relevant to import and export has been obtained for study. Through such preparations, the Commission aims to be in a position to implement its obligations under the mechanism immediately upon the Security Council taking appropriate action to adopt the mechanism and to bring it into effect.

III. CONCLUSIONS

26. The Government of Iraq has stated that, for it to see value in cooperating with the Special Commission and IAEA, it needed to be convinced that there was a prospect of paragraphs 21 and 22 of Security Council resolution 687 (1991) being implemented. It, therefore, demanded that the Special Commission and IAEA report to the Council that it had met the terms laid down in paragraph 22.

27. The Commission has repeatedly assured Iraq that its endeavours have been directed to bringing about, as soon as possible, a situation where paragraph 22 can be implemented. This, however, requires that the Commission be able to report to the Council that, based on its technical assessment, Iraq has met the requirements of paragraphs 8 to 10 of resolution 687 (1991). The Commission must be satisfied that the proscribed items have been disposed of, that it has as complete a picture as possible of Iraq's past programmes and that a comprehensive system of monitoring is operational.

28. Paragraph 22 states that:

> "The Security Council,
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> "...
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> "Decides ... that ... upon Council agreement that Iraq has completed all actions contemplated in paragraphs 8 to 13 above, the prohibitions against the import of commodities and products originating in Iraq and the prohibitions against financial transactions related thereto ... shall have no further force or effect".

The Special Commission is responsible for reporting on the implementation of paragraphs 8 to 10 and the Director-General of IAEA on the implementation of paragraphs 11 to 13. The actions contemplated of Iraq in paragraphs 8 to 10 are as follows:

"8. ... Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:

(a) All chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities related thereto;

(b) All ballistic missiles with a range greater than one hundred fifty kilometres, and related major parts and repair and production facilities;

"9. ... (a) Iraq shall submit to the Secretary-General ... a declaration on the locations, amounts and types of all items specified in paragraph 8 and agree to urgent, on-site inspection ...;

"9. ... (b) (ii) The yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless ... of all items specified under paragraph 8 (a), including items at the additional locations designated by the Special Commission ... and the destruction by Iraq, under the supervision of the Special Commission, of all its missile capabilities, including launchers, as specified in paragraph 8 (b);

"...

"10. Decides further that Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in paragraphs 8 and 9, and requests the Secretary-General, in consultation with the Special Commission, to develop a plan for the future ongoing monitoring and verification of Iraq's compliance with the present paragraph ...".

Paragraph 5 of Security Council resolution 715 (1991), itself an elaboration of paragraph 10 of resolution 687 (1991), adds:

"The Security Council,

"...

"5. Demands that Iraq meet unconditionally all its obligations under the plans [for the future ongoing monitoring and verification of Iraq's compliance with paragraph 10 of resolution 687 (1991)] approved by the present resolution and cooperate fully with the Special Commission ... in carrying out the plans".

29. Clearly, Iraq has not met all these terms, given the absence of credible accounting for its military biological activities. In the ballistic missile and chemical weapon areas, the Commission is now confident that it has a good overall picture of the extent of Iraq's past programmes and that the essential elements of its proscribed capabilities have been disposed of. While there are still some issues to be resolved in those two areas, the uncertainties arising from them do not present a pattern consistent with efforts to conceal a programme to retain acquired proscribed weapons. These remaining issues are not of a magnitude that would affect the assessment as to whether Iraq has completed the substantive actions required of it under paragraphs 8 to 10 of Security Council resolution 687 (1991) to eliminate its proscribed ballistic missile and chemical weapon and related facilities and to permit effective monitoring of its compliance in those areas.

30. The Commission has pursued, and is continuing to pursue, all means available to it to identify and verify every aspect of Iraq's past programmes. It realizes, however, that conditions have been such, particularly where the acquisition and disposal of items is concerned, that a verified accounting of each and every element of the past programmes is beyond the realm of possibility, given the various hostilities in which Iraq has been engaged and the unilateral actions by Iraq to destroy weapons, equipment, supplies and documentation. The Commission is, however, satisfied that, in the missile and chemical fields, it has achieved such a level of knowledge and understanding of Iraq's past programmes that it can have confidence that Iraq does not now have any significant proscribed capability. It is also confident that the comprehensiveness of its ongoing monitoring and verification activities, while those activities continue, is such that the Commission would detect any attempt to reconstitute a proscribed capability in those areas. Verification of the latest information obtained by the Commission in the missile and chemical fields can be carried out satisfactorily during the Commission's ongoing monitoring and verification operations, using the rights and privileges available to it under the relevant resolutions, the Exchange of Letters and the plan for ongoing monitoring and verification. As noted in paragraph 10 above, the Commission welcomes Iraq's pledge to cooperate with these efforts, even after any decision by the Security Council to ease or lift the sanctions and the embargo.

31. As regards paragraph 10 of resolution 687 (1991), it will be recalled that, by identical letters of 6 April 1991 to the Secretary-General and to the President of the Security Council (S/22456), Iraq indicated its acceptance of that resolution, and by further identical letters of 11 June 1991 to the same addressees (S/22689), Iraq confirmed that it had unconditionally undertaken not to use, develop, construct or acquire any of the items specified in the resolution. By a letter dated 26 November 1993 from the Minister for Foreign Affairs to the President of the Council (S/26811), the Government of Iraq stated that it had decided to accept the obligations set forth in resolution 715 (1991) and to comply with the provisions of the plans for monitoring and verification as contained therein.

32. On 7 October and again on 15 December 1994 (see S/1994/1138 and Corr.1 and S/1994/1422), the Commission reported to the Council that the ongoing monitoring and verification system was provisionally operational and that testing of the system had begun. In its report to the Council of 10 April 1995 (S/1995/284),

it reported that the elements of ongoing monitoring and verification were now in place and the system was operational and that it had received full cooperation from Iraq in setting up and operation of the monitoring system. To ensure the comprehensiveness of the system as far as Iraq's obligations are concerned, Iraq needs to respond satisfactorily to the Commission's concerns regarding its past biological weapons programme. Furthermore, as the plan for ongoing monitoring and verification notes (S/22871/Rev.1, para. 10), the efficacy of the provisions of the plan will be enhanced when they are complemented by an export/import monitoring mechanism that combines transparency with timely information on future sales or supplies to Iraq of relevant dual-use items. Presently, the Commission is satisfied that Iraq's cooperation in carrying out the monitoring plan has been of a degree that satisfies the provisions of paragraph 5 of Security Council resolution 715 (1991).